

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
AT CHARLOTTESVILLE**

**KAIA VICTORIA KRISTENSEN, a
minor by next friend, SUSAN LEIGH
KRISTENSEN, et al.,**

Plaintiff,

v.

**WILLIAM DAVID SPOTNITZ and
DENISE CONSTANCE SCHAIN,**

Defendants.

**Case No.: 3:09CV00084
(consolidated with 3:09CV00085)**

JOINT MOTION TO REMAND

COME NOW before the Court, the parties, by their respective counsel, and jointly move the Court to remand this consolidated case (consolidated with Alexander Kristensen case 3:09cv00085) to the Albemarle County Circuit Court for further proceedings:

1. On or about November 6, 2009, each plaintiff instituted a negligence action against the defendants claiming injuries resulting from alleged mold exposure in a house owned by the defendants.

2. On or around December 28, 2009, the defendants elected to remove each of the plaintiffs' case to this Court from the Albemarle County Circuit Court under United States Code 28 § 1332. The case was removed for diversity of citizenship between the parties and the amount in controversy exceeded \$75,000.00.

3. On the second day of a five day trial, the parties reached an oral settlement agreement fully resolving the dispute between the parties.

4. Because the two plaintiffs are infants, court approval of the settlement must be

obtained consistent with § 8.01-424 of the Code of Virginia.

5. The parties seek to have this case remanded to the Albemarle County Circuit Court for the purpose of employing Virginia statutory procedures to obtain judicial approval.

6. Defense counsel represents that he has sought prior approval of the plaintiffs' attorney to file this motion as a joint motion.

WHEREFORE, the parties, by counsel, respectfully request that this Court remand this case to the Albemarle County Circuit Court and for such other and further relief as the Court deems proper.

Respectfully submitted,

KAIA V. KRISTENSEN AND
ALEXANDER KRISTENSEN, BOTH
THROUGH THEIR NEXT FRIEND AND
MOTHER SUSAN KRISTENSEN, AND
WILLIAM DAVID SPOTNITZ
DENISE CONSTANCE SCHAIN

s/ Chad A. Mooney

G. Edgar Dawson, III

VSB #: 21666

Chad A. Mooney

VSB #: 75211

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CERTIFICATE OF SERVICE

I, Chad A. Mooney, do hereby certify that the foregoing **JOINT MOTION FOR REMAND** was sent using the CM/ECF system which will send notification of such filing to David Bailey, counsel for plaintiff, on this 20th day of October, 2011.

s/ Chad A. Mooney
Chad A. Mooney